

said continuous tape deposition in the claimed apparatus. A still further required structural component in the now claimed apparatus comprises "associated electrical control means" enabling said tape deposition in an automated continuous manner.


Remaining process claims 15-23 in the subject application also include multiple recitals of the term "means" in steps (b), (c) and (d) of the claimed process, thereby linking the claimed process to the prior claimed apparatus. It can be further noted in the now recited process claims that every structural component required in said above claimed apparatus is also recited in the sequential steps of the now claimed process. Such correspondence between said prior claimed apparatus and the now claimed process further evidences the linkage existing between said claims to prevent a proper restriction under these circumstances. Having such degree of correspondence in the above identified steps of the further claimed process far exceeds simply having the backing layer removal and severing mechanisms not being employed in a different tape laying apparatus. In step (a) of the now claimed process, the backing layer removal is further required to take place during continuous movement of the tape laying head member. Step (b) in the now claimed process still further requires specified "pinch roller means" in said tape laying head member during tape severance as again required in the prior claimed apparatus. Additionally, step (c) in the claimed process requires "compaction roller means" as also specified in the prior claimed apparatus with still further correspondence being found in step (d) of the claimed process from a recital therein of "mechanical cutter means" to cooperate operationally with the previously recited pinch roller means in said process claims. It follows therefrom that removing the backing layer and tape severing mechanisms from a different tape laying apparatus as proposed by the Examiner simply does not eliminate the above noted still further correspondence in the now claimed process with the presently claimed apparatus.

The Examiner cites MPEP³ 806.05(e) as the apparent authority for making the outstanding restriction

requirement. In so doing, the Examiner is respectfully deemed to have overlooked the prohibition upon restriction being required when the apparatus claims in a pending application "recite means" for practicing the claimed process. All apparatus claims in the subject application now recite multiple structural means in subparagraphs (c) and (d) of the single independent apparatus claims 1 along with additional recitation of said term in the dependent apparatus claims. It follows therefrom that such demonstrated linkage between the apparatus and process claims in the present application prevents further restriction in accordance with the relied upon authority. A still further prohibition against restriction under the present circumstances can also be found in MPEP §809.03 wherein linking claims between the claimed apparatus and process prevents restriction between inventions that can otherwise be shown to be divisible.

In summary, the applicants provisionally elect the apparatus claims 1-14 in the subject application to be further considered for examination purposes while also respectfully requesting a withdrawal of the outstanding restriction on the non-elected process claims 15-23 in view of the above remarks.

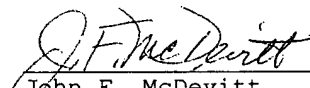
Respectfully submitted,


John F. McDevitt
Patent Attorney
Reg. No. 19,140

2255 Par Lane #626
Willoughby Hills, OH 44094
440/585-0919
April 2, 2005

CERTIFICATE OF MAILING

I HEREBY CERTIFY that this Amendment A was deposited with the United States Postal Service in an envelope addressed to: COMMISSIONER OF PATENTS, ALEXANDRIA, VA. on this 2nd day of April 2005.


John F. McDevitt